

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEPHEN R. KERN,

Plaintiff(s),

vs.

CLARK COUNTY SHERIFF, et al.,

Defendant(s).

Case No. 2:13-cv-00855-RFB-NJK

ORDER DENYING MOTION FOR
STATUS CHECK AND
MOTION FOR DISCOVERY

(Docket Nos. 23, 24)

Pending before the Court is Plaintiff's motion for a status check, filed on March 12, 2015. Docket No. 23. Also pending before the Court is Plaintiff's motion for discovery, filed on March 20, 2015. Docket No. 24. The Court finds that these motions are properly resolved without oral argument. *See* Local Rule 78-2.

I. Motion for Status Check

On August 12, 2013, the Court granted Plaintiff's application to proceed *in forma pauperis*. Docket No. 9. The Court dismissed Plaintiff's Complaint for failure to state a claim and granted Plaintiff leave to file an amended complaint. *Id.* Plaintiff filed an Amended Complaint on October 11, 2013. Docket No. 14.

On May 5, 2014, the Court issued a Screening Order on Plaintiff's Amended Complaint. Docket No. 16. The Court ordered that the Amended Complaint shall proceed on Counts I and II against Defendants Martinez and Rogers. *Id.*, at 7. The Court further ordered that, within 30 days, Plaintiff had to furnish the U.S. Marshal the required USM-285 form with relevant information as to each defendant on each form. *Id.* Additionally, the Court ordered Plaintiff to file a notice with

1 the Court within 20 days after receiving from the U.S. Marshal a copy of the USM-285 forms,
2 identifying which defendants were served and which were not served. *Id.*

3 On March 12, 2015, Plaintiff filed a motion for status check, indicating that Plaintiff “was
4 unsuccessful in sending summons to each defendant.” Docket No. 23. Plaintiff did not attach the
5 USM-285 forms to his motion for a status check. *See* Docket. Thus, it is unclear whether the U.S.
6 Marshal attempted to serve Defendants Martinez and Rogers.

7 The Court **ORDERS** the U.S. Marshal to file a notice of the status of service in this case, no
8 later than March 26, 2015. The Court further **ORDERS** Plaintiff to file a notice of the status of
9 service in this case, no later than April 6, 2015. Accordingly, Plaintiff’s motion for a status check
10 (Docket No. 23) is hereby **DENIED**.

11 **II. Motion for Discovery**

12 On March 20, 2015, Plaintiff filed a motion for discovery. Docket No. 24. Plaintiff’s motion
13 is premature, as it remain unclear whether any Defendants have even been served, and Court has not
14 yet entered a scheduling order regarding discovery. Accordingly, Plaintiff’s motion for discovery
15 is hereby **DENIED** without prejudice.

16 **III. Conclusion**

17 **IT IS ORDERED:**

- 18 1. Plaintiff’s motion for a status check (Docket No. 23) is **DENIED**.
- 19 2. Plaintiff’s motion for discovery (Docket No. 24) is **DENIED** without prejudice.
- 20 3. The U.S. Marshal is **ORDERED** to file a notice of the status of service in this case, no
21 later than March 26, 2015.
- 22 4. Plaintiff is **ORDERED** to file a notice of the status of service in this case, no later than
23 April 6, 2015.

24 DATED: March 23, 2015

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NANCY J. KORPE
United States Magistrate Judge